

Guidelines for Preparation of a General Services Fixed Price Contract

These guidelines are provided to assist Government of Alberta departments in completing the General Services fixed price contract template. **General Services includes consulting, project management, research, studies, report preparation, RFP and evaluation plan preparation, training and service delivery. This template should not be used when contracting for software maintenance and/or development.**

This template has been prepared by Contracted Services Section (CSS), Procurement Services, Service Alberta and reviewed by Legal Services, Alberta Justice and Risk Management and Insurance Division, Alberta Revenue.

This template requires a Request for Proposals (RFP) and a Proposal to fully describe the nature of the services to be provided and any attendant specifications and requirements of the Vendor.

The department must determine the appropriate performance security for the project. A holdback of 10% of the Contract value is most often used, however, a higher or lower amount may be appropriate based on project approach and risk factors. It is appropriate to require only one form of performance security as more than one form or an unreasonably high percentage or dollar amount could result in harsh financial consequences for the Vendor. All forms of performance securities impact the cost bid by the Vendor.

The contract clauses to be completed by the department prior to release of the RFP are as follows:

- Clause 4(a); and
- Clause 6(c)*

*If a holdback is not required, delete clauses 6(c) and 6(d). In addition, clause 20(b)(ii) would be modified as follows:

- (ii) the Minister shall only have to pay the Vendor for the Services completed and Materials delivered in accordance with this Contract up to the effective date of termination.

Should a warranty be required for the project/required Services the following changes would be made to the contract prior to the release of the RFP:

1. Delete Clause 6(d) and replace with the following:

- (d) The Minister shall pay to the Vendor upon completion of the Warranty Period, (the Warranty Period is explained in clause 15(a)) any amount held back by the Minister under clause 6(c), if all the Services and Materials are in accordance with the provisions of this Contract.

2. Insert a Warranty clause 15 as follows:

WARRANTY

- 15 (a) The Vendor warrants that the Materials shall perform as required by this Contract for a period of ____ days beginning on the date upon which the Materials are accepted by the Minister pursuant to the acceptance process described in this Contract ("Warranty Period"). During the Warranty Period, the Vendor shall immediately correct, at its own expense, any defects in the Materials caused by the acts or omissions of the Vendor or its employees, subcontractors or agents which causes the Materials not to perform as required by this Contract.

Note: Insert the appropriate number of days for the Warranty Period in the clause provided above.

- (b) If a defect or series of defects in the Materials cannot be or is not corrected by the Vendor during the Warranty Period, the Warranty Period will continue for the defect or series of defects until the Materials function and perform in accordance with this Contract.
- (c) If a defect or a series of defects are not corrected to function and perform in accordance with this Contract within a reasonable period of time, the Minister may terminate this Contract and retain any amount held back under clause 6(c).

3. Renumber all subsequent clause numbers and clause number references included in renumbered clauses 17(d) Insurance, 22(b) Delegation, 23(e) Change Request Process, and 24 (c) and (d)(iv) Dispute Resolution.

4. Delete the newly renumbered Termination Clause 20 (b) and replace with the following:

- (b) If this Contract is terminated:
 - (i) all Materials made, prepared, developed, generated, produced or acquired by the Vendor, the Vendor's employees, subcontractors or agents under this Contract, up to and including the completion date of the Warranty Period, are the property of the Minister;
 - (ii) the Vendor must still, if requested by the Minister, complete all Services required in clause 15, in accordance with this Contract;
 - (iii) all terms and conditions of this Contract, as applicable, shall continue during the Warranty Period; and
 - (iv) the Minister shall only have to pay the Vendor for the Services completed and Materials delivered in accordance with this Contract up to the effective date of

termination and if termination for cause, less any amount held back by the Minister under clause 6(c).

5. Delete the newly renumbered Survival of Terms Clause 26 and replace with the following:

26. This Contract shall continue during the Warranty Period and despite any other provision of this Contract, those clauses which by their nature continue after the conclusion or termination of this Contract shall continue after such conclusion or termination, including:

- (a) clause 8 Records
- (b) clause 12 Material Ownership
- (c) clause 13 Confidentiality
- (d) clause 15 Warranty
- (e) clause 16 Third Party Claims
- (f) clause 17 Responsibility

Should a Fidelity Bond be required for the project/required Services the following changes would be made to the contract prior to the release of the RFP:

1) Insert a new Insurance clause 17 (c) as follows:

(c) The Vendor shall provide a Fidelity Bond, covering all employees, subcontractors, and agents, in an amount not less than \$_____ for any one loss. Such bond shall extend to include all property entrusted to the Vendor and any property for which the Vendor may be legally liable. The Vendor shall provide the Minister with evidence of the bond upon request.

Note: Insert the appropriate dollar amount for the Fidelity Bond in the clause provided above.

2) Renumber the original clause 17(c) to read 17(d). Renumber the original clause 17(d) to read 17(e).

The remaining contract clauses would be completed following the selection of the preferred vendor for the project/Services.

Any proposed changes to the clauses, other than those items provided below, should first be discussed with CSS, when CSS is involved in the procurement process. Any changes to the standard provisions should be reviewed with Legal Services. Risk Management and Insurance should be consulted where changes to the liability or insurance provisions are contemplated by the department.

Contract Preparation:

1. **Contract Number:** Insert the number used to identify the contract.
2. **Between: (defines the parties to the Contract)** Insert the name of the department after "Minister of" (for example - Minister of Service Alberta).

Insert the vendor's registered corporation name in place of (Name of Corporation). The registered corporation name should be verified with Corporate Registry, Service Alberta.

3. **Background:** In the first paragraph, insert the date the Request for Proposals was issued. In the second paragraph insert the date of the Vendor's Proposal and the date(s) of any additional correspondence provided by the Vendor to be included in the Contract.
4. **Term (clause 5):** Insert the start date and the completion date for the performance of the Services/delivery of the Materials.
5. **Payment (clause 6):** Insert the fixed price contract value in 6(a). This amount would be the amount approved by CSS if the acquisition was completed through CSS.
6. **Notices (clause 19(a)):** Identify to whom and where notices and payments are to be sent, including the title of each party's representative, their address and fax number.
7. **Delegation (clause 22(a)):** Insert the title of the appropriate Minister's designate, and the branch, division, and department name.
8. **Signature Blocks (following "The parties have made this Contract"):** Format the document so that at least the last clause of the Contract is included with the signature blocks. Insert the department name and the Vendor name in the same manner as stated on the front page of the Contract. The Vendor's signature to the Contract should be obtained first, then the signature of the appropriate authority representing the Minister.

For acquisitions managed by CSS, add the following signature block:

January 31, 2007

Reviewed by:
Contracted Services Section
Procurement Services
Service Alberta

Signature

Title

Date